- 1 SB53
- 2 77004-10
- 3 By Senators Mitchem, French, Dial, Barron, Butler, Little (T),
- 4 Holley, Enfinger, Singleton, Lindsey, Sanders, Biddle, Lee,
- 5 Dixon, Byrne, Erwin, Waggoner, Myers, Marsh, Smith, Mitchell,
- Denton, Escott, McClain, Means, Preuitt, Roberts, Smitherman,
- 7 Little (Z), Penn, and Tanner
- 8 RFD: Finance and Taxation Education
- 9 First Read: 19-JUL-05

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        SB53
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        ENROLLED, An Act,
                   To amend Sections 13A-5-2, 13A-5-6, 13A-6-69,
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        13A-11-200, 13A-11-201, 13A-11-202, 14-9-41, 15-18-8,
        15-20-20.1, 15-20-21, 15-20-22, 15-20-23, 15-20-24,
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        15-20-25.1, 15-20-25.2, 15-20-25.3, 15-20-26, 15-20-29,
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        15-20-31, and 15-20-35 of the Code of Alabama 1975, relating
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        to adult and juvenile criminal sex offenders; to provide for
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        further regulation of adult and juvenile criminal sex
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        offenders and to provide for increased or additional criminal
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        penalties; to add new Sections 15-20-23.1, 15-20-26.1 and
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        15-20-26.2 to the Code of Alabama 1975, regulating adult
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        criminal sex offenders and juvenile sex offenders and to
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        provide penalties; and to repeal Section 13A-11-203, Code of
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        Alabama 1975.
        BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
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                   Section 1. Sections 13A-5-2, 13A-5-6, 13A-6-69,
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        13A-11-200, 13A-11-201, 13A-11-202, 14-9-41, 15-18-8,
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        15-20-20.1, 15-20-21, 15-20-22, 15-20-23, 15-20-24,
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        15-20-25.1, 15-20-25.2, 15-20-25.3, 15-20-26, 15-20-29,
        15-20-31, and 15-20-35 of the Code of Alabama 1975, are
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        amended to read as follows:
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                   "$13A-5-2.
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1	"(a) Every person convicted of a felony shall be
2	sentenced by the court to imprisonment for a term authorized
3	by Sections 13A-5-6, 13A-5-9 and 13A-5-10.

- "(b) In addition to imprisonment, every person

 convicted of a felony may be sentenced by the court to pay a

 fine authorized by Section 13A-5-11.
- 7 "(c) Every person convicted of a misdemeanor or 8 violation shall be sentenced by the court to:
- 9 "(1) Imprisonment for a term authorized by Section 10 13A-5-7; or
 - "(2) Pay a fine authorized by Section 13A-5-12; or
- 12 "(3) Both such imprisonment and fine.

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- "(d) Every person convicted of a felony, misdemeanor or violation, except for the commission of a criminal sex offense involving a child as defined in Section 15-20-21(5), may be placed on probation as authorized by law.
 - "(e) This article does not deprive a court of authority conferred by law to forfeit property, dissolve a corporation, suspend or cancel a license or permit, remove a person from office, cite for contempt or impose any other lawful civil penalty. Such a judgment, order or decree may be included as part of the sentence.
- "(f) Every person convicted of murder shall be sentenced by the court to imprisonment for a term, or to death

1	or to life imprisonment without parole as authorized by
2	subsection (c) of Section 13A-6-2.
3	"§13A-5-6.
4	"(a) Sentences for felonies shall be for a definite
5	term of imprisonment, which imprisonment includes hard labor,
6	within the following limitations:
7	"(1) For a Class A felony, for life or not more than
8	99 years or less than 10 years.
9	"(2) For a Class B felony, not more than 20 years or
10	less than 2 years.
11	"(3) For a Class C felony, not more than 10 years or
12	less than 1 year and 1 day.
13	"(4) For a Class A felony in which a firearm or
14	deadly weapon was used or attempted to be used in the
15	commission of the felony, or a Class A felony criminal sex
16	offense involving a child as defined in Section 15-20-21(5),
17	not less than 20 years.
18	"(5) For a Class B or C felony in which a firearm or
19	deadly weapon was used or attempted to be used in the
20	commission of the felony, or a Class B felony criminal sex

"(b) The actual time of release within thelimitations established by subsection (a) of this section

not less than 10 years.

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offense involving a child as defined in Section 15-20-21(5),

shall be determined under procedures established elsewhere by law.

"(c) In addition to any penalties heretofore or hereafter provided by law, in all cases where an offender is designated as a sexually violent predator pursuant to Section 15-20-25.3, or where an offender is convicted of a Class A felony criminal sex offense involving a child as defined in Section 15-20-21(5), and is sentenced to a county jail or the Alabama Department of Corrections, the sentencing judge shall impose an additional penalty of not less than 10 years of post-release supervision to be served upon the defendant's release from incarceration.

"§13A-6-69.

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"(a) It shall be unlawful for any person with lascivious intent to entice, allure, persuade or invite, or attempt to entice, allure, persuade or invite, any child under 16 years of age to enter any vehicle, room, house, office or other place for the purpose of proposing to such child the performance of an act of sexual intercourse or an act which constitutes the offense of sodomy or for the purpose of proposing the fondling or feeling of the sexual or genital parts of such child or the breast of such child, or for the purpose of committing an aggravated assault on such child, or for the purpose of proposing that such child fondle or feel the sexual or genital parts of such person.

"(b) A violation of this section is a Class C
felony.

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"(a) The Legislature declares that its intent in imposing certain reporting and registration requirements on criminal sex offenders is to protect the public, especially children, from the dangers posed by criminal sex offenders and not to further punish such offenders.

"(b) If any person, except a delinquent child, as defined in Section 12-15-1, residing in Alabama, has heretofore been convicted, or shall be convicted in any state or municipal court in Alabama, or federal court, or so convicted in another state in any court having jurisdiction similar to the jurisdiction of state and municipal courts in Alabama for any of the offenses hereinafter enumerated, such person shall, upon his or her release from legal custody, register with the sheriff of the county of his or her legal residence within seven days following such release or within 30 days after September 7, 1967, in case such person was released prior to such date. For purposes of this article, a conviction includes a plea of nolo contendere, regardless of whether adjudication was withheld. The offenses above referred to are generally any act of sexual perversion involving a member of the same or the opposite sex, or any sexual abuse of any member of the same or the opposite sex or any attempt to

commit any of these acts, and without limiting the generality of the above statement shall include specifically: rape, as proscribed by Sections 13A-6-61 and 13A-6-62; sodomy, as proscribed by Sections 13A-6-63 and 13A-6-64; sexual misconduct, as proscribed by Section 13A-6-65; indecent exposure, as proscribed by Section 13A-6-68; promoting prostitution in the first or second degree, as proscribed by Sections 13A-12-111 and 13A-12-112; obscenity, as proscribed by Section 13A-12-131; incest, as proscribed by Section 13A-13-3; or the attempt to commit any of the above offenses.

"(c) Any person having been so convicted shall upon moving his legal residence from one county to another register with the sheriff of the county to which he has moved within seven days after such removal. It shall be unlawful for a convicted sex offender as described in this article to fail or refuse to register as required in this section and failure to do so is a Class C felony.

"\$13A-11-201.

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"The sheriff of each county in Alabama shall maintain a register or roster of the names of all persons registered by him under this article, which register shall only be open to inspection by duly constituted law enforcement officers. The information contained in the register or roster, however, shall be made available if disclosure is necessary for the administration, implementation, or enforcement of the

Community Notification Act, Chapter 20 of Title 15. The
sheriff shall also notify the state department of public
safety of the name of each person registered by him and at the
same time supply to such department information relative to
the conviction of each person so registered.

"\$13A-11-202.

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"The State Department of Public Safety shall maintain a register or roster of the names of all persons registered under this article by the several sheriffs of the state. Such register or roster shall be open only to inspection by duly constituted law enforcement officers or agencies. The information contained in the register or roster, however, shall be made available if disclosure is necessary for the administration, implementation, or enforcement of the Community Notification Act, Chapter 20 of Title 15.

"§14-9-41.

"(a) Each prisoner who shall hereafter be convicted of any offense against the laws of the State of Alabama and is confined, in execution of the judgment or sentence upon any conviction, in the penitentiary or at hard labor for the county or in any municipal jail for a definite or indeterminate term, other than for life, whose record of conduct shows that he has faithfully observed the rules for a period of time to be specified by this article may be entitled to earn a deduction from the term of his sentence as follows:

1		"(1)) S∈	eventy-fiv	<i>7</i> e (days	for	each	30	days	act	cually	
2	served	while t	the	prisoner	is	clas	ssifi	ed as	s a	Class	: T	prisone	r.

"(2) Forty days for each 30 days actually served
while the prisoner is a Class II prisoner.

- "(3) Twenty days for each 30 days actually served while the prisoner is a Class III prisoner.
 - "(4) No good time shall accrue during the period the prisoner is classified as a Class IV prisoner.
 - "(b) Within 90 days after May 19, 1980, the Commissioner of the Department of Corrections shall establish and publish in appropriate directives certain criteria not in conflict with this article for Class I, II, III, and IV prisoner classifications. Such classifications shall encompass consideration of the prisoner's behavior, discipline, and work practices and job responsibilities.
 - "(c)(1) Class I is set aside for those prisoners who are considered to be trustworthy in every respect and who, by virtue of their work habits, conduct and attitude of cooperation have proven their trustworthiness. An example of a Class I inmate would be one who could work without constant supervision by a security officer.
- "(2) Class II is that category of prisoners whose
 jobs will be under the supervision of a correctional employee
 at all times. Any inmate shall remain in this classification

for a minimum period of six months before being eligible for Class I.

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- "(3) Class III is for prisoners with special assignments. They may not receive any of the privileges of Class I and Class II inmates. Any inmate shall remain in this classification for a minimum period of three months before being eligible for Class II.
- "(4) Class IV is for prisoners not yet classified and for those who are able to work and refuse, or who commit disciplinary infractions of such a nature which do not warrant a higher classification, or inmates who do not abide by the rules of the institution. Inmates who are classified in this earning class receive no correctional incentive time. This class is generally referred to as "flat time" or "day-for-day". Any inmate shall remain in this classification for a minimum period of 30 days before being eligible for Class III.
- "(5) No inmate may reach any class without first having gone through and meeting the requirements of all lower classifications.
- "(d) As a prisoner gains a higher classification status he shall not be granted retroactive incentive credit based on the higher classification he has reached, but shall be granted incentive credit based solely on the classification in which he was serving at the time the incentive credit was

earned. Nothing in this article shall be interpreted as authorizing an inmate incentive credits based on the highest classification he attains for any period of time in which he was serving in a lower classification or from the date of his sentence.

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"(e) Provided, however, no person may receive the benefits of correctional incentive time if he or she has been convicted of a Class A felony or has been sentenced to life, or death, or who has received a sentence for more than 15 years in the state penitentiary or in the county jail at hard labor or in any municipal jail. No person may receive the benefits of correctional incentive time if he or she has been convicted of a criminal sex offense involving a child as defined in Section 15-20-21(5). No person may be placed in Class I if he or she has been convicted of an assault where the victims of such assault suffered the permanent loss or use or permanent partial loss or use of any bodily organ or appendage. No person may be placed in Class I if he or she has been convicted of a crime involving the perpetration of sexual abuse upon the person of a child under the age of 17 years.

"The court sentencing a person shall note upon the transcript to accompany such prisoner the fact that he or she has been sentenced as a result of a crime that forbids his or her being classified as a Class I prisoner.

1	"(f)(1) If during the term of imprisonment a
2	prisoner commits an offense or violates a rule of the
3	Department of Corrections, all or any part of his correctional
4	incentive time accrued pursuant to this section shall be
5	forfeited.

- "(2) The Commissioner of the Department of
 Corrections shall have the power to restore to any prisoner
 who has heretofore, or who may hereafter, forfeit the
 deductions allowed him or her for good behavior, work habits
 and cooperation, or good conduct, by violating any existing
 law or prison rule or regulation such portion of his deduction
 for good conduct or good behavior as may be proper in his
 judgment, upon recommendation and evidence submitted to him by
 the warden in charge.
- "(g) (1) When a prisoner is serving two or more terms of imprisonment and the sentences run consecutively, then all such sentences shall be combined for the purpose of computing deductions for correctional incentive time and release date; however, the actual deduction from sentence for correctional incentive time provided by this section shall apply only to sentences to be served.
- "(2) When a prisoner is serving two or more sentences which run concurrently, the sentence which results in the longer period of incarceration yet remaining shall be considered the term to which such prisoner is sentenced for

the purpose of computing his release date and correctional incentive time under the provisions of this article. When computing the deductions allowed in this section on indeterminate sentences the maximum sentence shall be the basis for the computation. The provisions of this section shall be administered by the chief administrative officer of the penal institution as it applies to prisoners in any state penal institution, by the sheriff of the county as it applies to prisoners in any county jail and by the chief of police as it applies to prisoners in any municipal jail.

"(h) Deductions for good behavior, work habits and cooperation, or good conduct shall be interpreted to give authorized good time retroactively, to those offenders convicted of crimes committed after May 19, 1980, except those convicted of crimes of the unlawful sale or distribution of controlled substances as enumerated in Title 13A and in former Chapter 2 of Title 20, and for any sexual offenses as enumerated in Chapter 6, Title 13A, provided however that the Commissioner of the Department of Corrections shall have the prison records of all inmates, who become eligible under this article, reviewed and shall disqualify any such inmate from being awarded good time under this article at his discretion.

"\$15-18-8.

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"(a) When a defendant is convicted of an offense, other than a criminal sex offense involving a child as defined

in Section 15-20-21(5), which constitutes a Class A or B felony and receives a sentence of 20 years or less in any court having jurisdiction to try offenses against the State of Alabama and the judge presiding over the case is satisfied that the ends of justice and the best interests of the public as well as the defendant will be served thereby, he or she may order:

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"(1) That the convicted defendant be confined in a prison, jail-type institution, or treatment institution for a period not exceeding three years in cases where the imposed sentence is not more than 15 years, and that the execution of the remainder of the sentence be suspended notwithstanding any provision of the law to the contrary and that the defendant be placed on probation for such period and upon such terms as the court deems best. In cases involving an imposed sentence of greater than 15 years, but not more than 20 years, the sentencing judge may order that the convicted defendant be confined in a prison, jail-type institution, or treatment institution for a period not exceeding five years, but not less than three years, during which the offender shall not be eligible for parole or release because of deduction from sentence for good behavior under the Alabama Correctional Incentive Time Act, and that the remainder of the sentence be suspended notwithstanding any provision of the law to the

contrary and that the defendant be placed on probation for the period upon the terms as the court deems best.

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"(2) That the convicted defendant may be confined, upon consultation with the Commissioner of the Alabama Department of Corrections (hereinafter called department) in a disciplinary, rehabilitation, conservation camp program (hereinafter called program) of the department. The convicted defendant shall be received into the department in accordance with applicable department rules and regulations and may be placed in the program after completion of this initial reception. The program shall be not less than 90 days nor more than 180 days in duration and shall be operated in accordance with department rules and regulations and as otherwise provided for by law. The commissioner of the department or his or her designee shall report to the sentencing court of each convicted defendant whether or not the convicted defendant completes or does not complete the program with any additional information that the commissioner or his or her designee shall wish to provide the court. Upon receipt of this report, the sentencing court may, upon its own order, suspend the remainder of the sentence and place the convicted defendant on probation as provided herein or order the convicted defendant to be confined to a prison, jail-type institution, or treatment institution for a period not to exceed three years and that the execution of the remainder of the sentence be

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suspended and the defendant be placed on probation for such period and upon such terms as the court deems best. If the sentencing court imposes additional confinement, as outlined above, credit shall be given for the actual time spent by the convicted defendant in the program. Conviction of an offense or prior offense of murder, rape first degree, kidnapping first degree, sodomy first degree, enticing a child to enter vehicle, house, etc., for immoral purposes, arson first degree, robbery first degree, and sentencing of life without parole will not be eligible for this program. It shall be the duty of the joint prison committee as established by Sections 29-2-20 to 29-2-22, inclusive, to annually review the operation of the program and report their findings to the Alabama Legislature.

"(b) Probation may not be granted for a criminal sex offense involving a child as defined in Section 15-20-21(5), which constitutes a Class A or B felony. Otherwise, probation may be granted whether the offense is punishable by fine or imprisonment or both. If an offense is punishable by both fine and imprisonment, the court may impose a fine and place the defendant on probation as to imprisonment. Probation may be limited to one or more counts or indictments, but, in the absence of express limitation, shall extend to the entire sentence and judgment.

1	"(c) Regardless of whether the defendant has begun
2	serving the minimum period of confinement ordered under the
3	provisions of subsection (a), the court shall retain
4	jurisdiction and authority throughout said period to suspend
5	that portion of the minimum sentence that remains and place
6	the defendant on probation, notwithstanding any provision of
7	the law to the contrary and the court may revoke or modify any
8	condition of probation or may change the period of probation.

"(d) While incarcerated or on probation and among the conditions thereof, the defendant may be required:

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- "(1) To pay a fine in one or several sums;
- "(2) To make restitution or reparation to aggrieved parties for actual damages or loss caused by the offense for which conviction was had; and
- "(3) To provide for the support of any persons for whose support he or she is legally responsible.
- "(e) The defendant's liability for any fine or other punishment imposed as to which probation is granted shall be fully discharged by the fulfillment of the terms and conditions of probation.
- "(f) During any term of probation, the defendant shall report to the probation authorities at such time and place as directed by the judge imposing sentence.
- "(g) No defendant serving a minimum period of confinement ordered under the provisions of subsection (a)

shall be entitled to parole or to deductions from his or her sentence under the Alabama Correctional Incentive Time Act, during the minimum period of confinement so ordered; provided, however, that this subsection shall not be construed to prohibit application of the Alabama Correctional Incentive Time Act to any period of confinement which may be required after the defendant has served such minimum period.

"\$15-20-20.1.

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"The Legislature finds that the danger of recidivism posed by criminal sex offenders and that the protection of the public from these offenders is a paramount concern or interest to government. The Legislature further finds that law enforcement agencies' efforts to protect their communities, conduct investigations, and quickly apprehend criminal sex offenders are impaired by the lack of information about criminal sex offenders who live within their jurisdiction and that the lack of information shared with the public may result in the failure of the criminal justice system to identify, investigate, apprehend, and prosecute criminal sex offenders.

"The system of registering criminal sex offenders is a proper exercise of the state's police power regulating present and ongoing conduct. Comprehensive registration and periodic address verification will provide law enforcement with additional information critical to preventing sexual victimization and to resolving incidents involving sexual

abuse and exploitation promptly. It will allow them to alert the public when necessary for the continued protection of the community.

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"Persons found to have committed a sex offense have a reduced expectation of privacy because of the public's interest in safety and in the effective operation of government. In balancing offender's due process and other rights, and the interests of public security, the Legislature finds that releasing information about criminal sex offenders to law enforcement agencies and, providing access to or releasing such information about criminal sex offenders to the general public, will further the primary government interest of protecting vulnerable populations and in some instances the public, from potential harm. The Legislature further finds that residency and employment restrictions for criminal sex offenders provide additional protections to vulnerable segments of the public such as schools and child care facilities.

"Juvenile sex offenders, like their adult counterparts, pose a danger to the public. Research has shown, however, that there are significant differences between adult and juvenile criminal sexual offenders. Juveniles are much more likely to respond favorably to sexual offender treatment. Juvenile offenders have a shorter history of committing sexual offenses. They are less likely to have deviant sexual arousal

patterns and are not as practiced in avoiding responsibility for their abusive behavior. Juveniles are dependent upon adults for food and shelter, as well as the emotional and practical support vital to treatment efforts. Earlier intervention increases the opportunity for success in teaching juveniles how to reduce their risk of sexually re-offending. The Legislature finds that juvenile criminal sex offenders should be subject to the Community Notification Act, but that certain precautions should be taken to target the juveniles that pose the more serious threats to the public.

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"Therefore, the state policy is to assist local law enforcement agencies' efforts to protect their communities by requiring criminal sex offenders to register, record their address of residence, to be photographed, fingerprinted, to authorize the release of necessary and relevant information about criminal sex offenders to the public, to mandate residency and employment restrictions upon criminal sex offenders, and to provide certain discretion to judges for application of these requirements as provided in this article.

"The Legislature declares that its intent in imposing certain reporting and monitoring requirements on criminal sex offenders and requiring community notification of the residence and workplace of criminal sex offenders is to protect the public, especially children, from convicted criminal sex offenders.

1	"\$15-20-21.
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"For purposes of this article, the following words
shall have the following meanings:

- "(1) ADULT CRIMINAL SEX OFFENDER. A person convicted of a criminal sex offense, including a person who has pleaded nolo contendere to a criminal sex offense, regardless of whether adjudication was withheld.
- "(2) CHILD CARE FACILITY. A licensed daycare center, a licensed child care facility, or any other child care service that is exempt from licensing pursuant to Section 38-7-3.
 - "(3) COMMUNITY NOTIFICATION FLYER. This notification shall include the following information on the criminal sex offender: Name; actual living address; sex; date of birth; complete physical description, including distinguishing features such as scars, birth marks, or any identifying physical characteristics; and a current photograph. This notification shall also include a statement of the criminal sex offense for which he or she has been convicted, including the age and gender of the victim, the geographic area where the offense occurred, and the date upon which the criminal sex offender will be released. This notification shall also include a statement that the same information is on file at the sheriff's office and police headquarters, if a police department has jurisdiction over the criminal sex offender's

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or 13A-12-197.

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        residence, and that the information will be available to the
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        general public for inspection and identification purposes
        during regular business hours.
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                   "(4) CRIMINAL SEX OFFENSE. Any of the following
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        offenses:
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                   "a. Rape in the first or second degree, as
        proscribed by Section 13A-6-61 or 13A-6-62; provided that a
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        sentencing court may exempt from this article a juvenile or
        youthful offender criminal sex offender for a criminal sex
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        offense as defined in Section 13A-6-62(a)(1).
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                   "b. Sodomy in the first or second degree, as
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        proscribed by Section 13A-6-63 or 13A-6-64.
                   "c. Sexual torture, as proscribed by Section
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        13A-6-65.1.
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                   "d. Sexual abuse in the first or second degree as
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        proscribed by Section 13A-6-66 or 13A-6-67.
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                   "e. Enticing a child to enter a vehicle, room,
        house, office, or other place for immoral purposes, as
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        proscribed by Section 13A-6-69.
                   "f. Promoting prostitution in the first or second
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        degree, as proscribed by Section 13A-12-111 or 13A-12-112.
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as proscribed by Section 13A-12-191, 13A-12-192, 13A-12-196,

"g. Violation of the Alabama Child Pornography Act,

1	•	"h.	Kidnap	ping	of	a r	minor,	except	by	a pa	rent	t,	in
2	the first o	or s	second	degre	e,	as	proscr	ribed by	y Se	ctic	n 13	3A-	6-43
3	or 13A-6-44	4.											

- "i. Incest, as proscribed by Section 13A-13-3, when 4 the offender is an adult and the victim is a minor. 5
- 6 "j. Soliciting a child by computer for the purposes of committing a sexual act and transmitting obscene material 7 to a child by computer, as proscribed by Sections 13A-6-110 8 and 13A-6-111. 9
- "k. Any solicitation, attempt, or conspiracy to 11 commit any of the offenses listed in paragraphs a. to j., inclusive.

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- "l. Any crime committed in any state or a federal, military, Indian, or a foreign country jurisdiction which, if it had been committed in this state under the current provisions of law, would constitute an offense listed in paragraphs a. to k., inclusive.
- "(m) The foregoing notwithstanding, any crime committed in any jurisdiction which, irrespective of the specific description or statutory elements thereof, is in any way characterized or known as rape, sodomy, sexual assault, sexual battery, sexual abuse, sexual torture, solicitation of a child, enticing or luring a child, child pornography, lewd and lascivious conduct, taking indecent liberties with a child, or molestation of a child.

L	"(5) CRIMINAL SEX OFFENSE INVOLVING A CHILD. A
2	conviction for any criminal sex offense in which the victim
3	was a child under the age of 12 and any offense involving
1	child pornography.

- "(6) EMPLOYMENT. Includes employment that is full-time or part-time for any period, whether financially compensated, volunteered, or for the purpose of government or educational benefit.
- "(7) JUVENILE CRIMINAL SEX OFFENDER. An individual adjudicated delinquent of a criminal sex offense.
- "(8) MENTAL ABNORMALITY. A congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sex offense to a degree that makes the person a menace to the health and safety of other persons.
- "(9) PREDATORY. An act directed at a stranger, or a person with whom a relationship has been established, or promoted for the purpose of victimization.
- "(10) RELEASE. Release from a state prison, county jail, or municipal jail, or release or discharge from the custody of the Department of Youth Services or other juvenile detention, or placement on an appeal bond, probation or parole or aftercare, or placement into any facility or treatment

program that allows the offender to have unsupervised access to the public.

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"(11) RESPONSIBLE AGENCY. The person or government entity whose duty it is to obtain information from a criminal sex offender before release and to transmit that information to police departments or sheriffs responsible for providing community notification. For a criminal sex offender being released from state prison, the responsible agency is the Department of Corrections. For a criminal sex offender being released from a county jail, the responsible agency is the sheriff of that county. For a criminal sex offender being released from a municipal jail, the responsible agency is the police department of that municipality. For a criminal sex offender being placed on probation, including conditional discharge or unconditional discharge, without any sentence of incarceration, the responsible agency is the sentencing court. For a criminal sex offender being released from the Department of Youth Services, the responsible agency is the Department of Youth Services. For a criminal sex offender who is being released from a jurisdiction outside this state and who is to reside in this state, the responsible agency is the Department of Public Safety.

"(12) RISK ASSESSMENT. A written report on the assessment of risk for sexually re-offending conducted by a sexual treatment program approved by the Department of Youth

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Services. The report shall include, but not be limited to, the following regarding the criminal sex offender: Criminal history, mental status, attitude, previous sexual offender treatment and response to treatment, social factors, conditions of release expected to minimize risk of sexual

"(13) SCHOOL. A licensed or accredited public or private school, or church school, that offers instruction in grades K-12. This definition shall not include private residences in which students are taught by parents or tutors.

re-offending, and characteristics of the criminal sex offense.

- "(14) SENTENCING COURT. The court of conviction or the court that determines sentence as a result of conviction or adjudication.
 - "(15) SEXUALLY VIOLENT PREDATOR. A person who has been convicted of a criminal sex offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory criminal sex offenses.
 - "(16) STUDENT. A person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any schools as defined in subdivision (13).
- "(17) YOUTHFUL OFFENDER CRIMINAL SEX OFFENDER. An individual adjudicated a youthful offender for a criminal sex offense.
- **"**\$15-20-22.

"(a) Forty-five days prior to the release of an adult criminal sex offender, the following shall apply:

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- "(1) The responsible agency shall require the adult criminal sex offender to declare, in writing or by electronic means approved by the Director of the Department of Public Safety, the actual address at which he or she will reside or live upon release and the name and physical address of his or her employer, if any. Any failure to provide timely and accurate declarations shall constitute a Class C felony. Any adult criminal sex offender in violation of this section shall be ineligible for release on probation or parole. Any adult criminal sex offender in violation of this section who is to be released due to the expiration of his or her sentence shall be charged with violating this section and, upon release, shall immediately be remanded to the custody of the sheriff of the county in which the violation occurred. Any adult criminal sex offender charged with violating this section may only be released on bond on the condition that the offender is in compliance with this section before being released.
- "(2) If the adult criminal sex offender declares his or her intent to reside or be employed outside of the state, the responsible agency shall, within five business days of the declarations required by this article, notify the Director of the Department of Public Safety, the Attorney General, or the designated state law enforcement agency of the state to which

the adult criminal sex offender has declared his or her intent to move or in which he or she intends to be employed, and shall also notify the Alabama Criminal Justice Information Center. The notification shall include all information available to the responsible agency which would be necessary to identify and trace the adult criminal sex offender, including, but not limited to, the offender's declared places of residence and employment, each sex offense history or pre-sentence investigation of the sex offense, fingerprints, and a current photograph of the adult criminal sex offender.

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"(3) If the adult criminal sex offender declares his or her intent to reside, live, or be employed within this state, the responsible agency shall, within five business days of the written declaration, notify the Attorney General, the Director of the Department of Public Safety, the district attorney and the sheriff of any county in which the adult criminal sex offender intends to reside or be employed, the chief of police of any municipality in which the adult criminal sex offender intends to reside or be employed, and the Alabama Criminal Justice Information Center. The notification shall include all information available to the responsible agency which would be necessary to identify and trace the adult criminal sex offender, including, but not limited to, the offender's declared places of residence and employment, each sex offense history or pre-sentence

investigation of the sex offense, fingerprints, and a current photograph of the criminal sex offender.

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- "(4) The Alabama Criminal Justice Information Center shall be responsible for notifying the Federal Bureau of Investigation with sex offender information upon receiving this information from the responsible agency. Measures shall be taken to ensure this information is submitted to and included in the national database of sex offenders established pursuant to 42 U.S.C. § 14072.
- "(b) If a sentencing court does not impose a sentence of incarceration upon conviction of the adult criminal sex offender for a criminal sex offense, notification shall be provided by the responsible agency in accordance with subsection (a) within 24 hours of release.
- "(c) Prior to release, every adult criminal sex offender convicted for a criminal sex offense shall submit to the probation officer or sheriff a DNA sample that will be sent to the Department of Forensic Sciences. An adult criminal sex offender who intentionally fails to provide a DNA sample shall be guilty of a Class C felony.
- "(d) If an adult criminal sex offender is unable to declare a place of employment prior to release because he or she is unemployed, the offender shall declare in writing or by electronic means approved by the Director of the Department of Public Safety the name and physical address of his or her

employer to the sheriff of the county and chief of police of the municipality in which the offender is employed by the end of the next business day after he or she obtains employment. Any failure to provide a timely and accurate written declaration as required by this section is a Class C felony.

"\$15-20-23.

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- "(a) If an adult criminal sex offender intends to transfer his or her residence to a different location, he or she shall submit a notice of intent to move to the sheriff of the county and the chief of police of the municipality in which he or she resides, and to the sheriff of the county and chief of police of the municipality to which he or she plans to move, if such are different, at least 30 days prior to moving to the new location. The notice of intent to move shall be on a form developed by the Department of Public Safety provided by the sheriff and shall include all the information required by this article for community notification. Failure to provide a timely and accurate written declaration shall constitute a Class C felony.
- "(b) Notwithstanding other provisions of law regarding establishment of residence, an adult criminal sex offender shall be deemed to have established a new residence in any of the following circumstances:
- "(1) Whenever that adult criminal sex offender is domiciled for three consecutive days or more.

1	"(2) Whenever that adult criminal sex offender is
2	domiciled following his or her release, regardless of whether
3	that criminal sex offender has been domiciled at the same
4	location prior to the time of conviction.

"(3) Whenever an adult criminal sex offender spends
10 or more aggregate days at a location during a calendar
month.

8 "\$15-20-24.

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- "(a) Sixty days after an adult criminal sex offender's most current release and, except during ensuing periods of incarceration, thereafter on the anniversary date of an adult criminal sex offender's birthday occurring more than 90 days after the release and the date six months after the anniversary date of an adult criminal sex offender's birthday occurring more than 90 days after the release, the Department of Public Safety shall mail a non-forwardable verification form to the address of the adult criminal sex offender. The sheriff, or chief of police where applicable, where the adult criminal sex offender resides shall be notified of the pending verification and whether the verification form was received by the adult criminal sex offender.
- "(b) Within 10 days of the receipt of the verification form, the adult criminal sex offender shall present in person the completed verification form to the

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sheriff, or chief of police where applicable, who shall obtain fingerprints and a photograph of the adult criminal sex offender. The verification form shall be signed by the adult criminal sex offender and shall state that the adult criminal sex offender still resides at that address and that the adult criminal sex offender is in compliance with the residence restrictions established in this article. In the event the adult criminal sex offender does not receive a verification form from the Department of Public Safety, the offender must nonetheless report in person to the sheriff, or chief of police where applicable, to verify his or her place of residence within 90 days of his or her most recent release and thereafter each year within 30 days of the offender's birthday and the date six months after the offender's birthday.

"(c) Within 30 days of an adult criminal sex offender's address verification, the Department of Public Safety shall, in accordance with guidelines promulgated by the Department of Public Safety, receive from the appropriate sheriff or chief of police verification of the adult criminal sex offender's address. Such guidelines shall ensure that address verification is accomplished with respect to these individuals and shall require the submission of fingerprints and photographs of the individuals.

"(d) An adult criminal sex offender who fails to verify his or her place of residence in accordance with this

section, provides a false statement to law enforcement in the verification process, or knowingly fails to permit law enforcement personnel to obtain fingerprints or a photograph shall be guilty of a Class C felony.

"\$15-20-25.1.

- "(a) Any adult criminal sex offender not a resident of this state shall register with law enforcement whenever the offender comes into this state to accept employment, to carry on a vocation, or to become a student. The offender shall also register any subsequent changes in his or her place of lodging, employment, or school being attended.
- "(b) Any adult criminal sex offender required to register under this section shall, within five days after entering this state or changing his or her place of lodging, employment, or school being attended, provide a written declaration to the sheriff of the county and chief of police of the municipality in which the offender intends to work or become a student. This written declaration shall contain all of the following:
 - "(1) Information concerning the registrant's place of employment or the school being attended.
- "(2) The registrant's address in his or her state of residence.

1	"(3) The address of any place of lodging the
2	registrant may have in this state for purposes of employment
3	or attendance as a student

- "(4) Other information as would be necessary to complete a community notification flyer as defined in subdivision (3) of Section 15-20-21.
- "(c) Whenever an adult criminal sex offender registers pursuant to this section, he or she shall be subject to the community notification procedures set forth in Section 15-20-25. The adult criminal sex offender shall be treated as though he or she had transferred his or her place of residence to the place of lodging declared under subdivision (3) of subsection (b). If no place of lodging is declared or exists, the adult criminal sex offender shall be treated as though he or she had transferred his or her place of residence to the place of employment or the school being attended declared under subdivision (1) of subsection (b).
- "(d) An intentional failure to provide a timely and accurate written declaration as required by this section shall constitute a Class C felony.

21 "\$15-20-25.2.

"(a) In addition to any other requirements of this article, an adult criminal sex offender shall provide written notice to the sheriff of the county and chief of police of the municipality in which the offender resides, of the following:

1	"(1) Each institution of higher education at which
2	the offender is employed, carries on a vocation, or is a
3	student.

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- "(2) Each change in enrollment or employment status of the offender at a an institution of higher education.
 - "(b) An adult criminal sex offender shall provide written notice as required under subdivision (1) of subsection (a) within five days of becoming employed, carrying on a vocation, or becoming a student at an institution of higher education.
 - "(c) A change in status noticed under subdivision

 (2) of subsection (a) shall be reported by the adult criminal sex offender within five days after the change becomes effective.
 - "(d) Any written notice provided to law enforcement under this section shall be forwarded to the Department of Public Safety and the Alabama Criminal Justice Information Center, both of which shall enter the information contained in the written notice in the appropriate state records or data system.
 - "(e) Any written notice provided to law enforcement under this section shall also be forwarded to campus police and any other security personnel of the school or institution of higher learning where the adult criminal sex offender is employed, carries on a vocation, or is a student.

1	"(f) An intentional failure to provide timely and
2	accurate written notice as required by this section shall
3	constitute a Class C felony.

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- "(a) Whenever an individual is convicted of a criminal sex offense in this state, the state, at the time of sentencing, may petition the sentencing court to enter an order adjudging the offender to be a sexually violent predator.
- "(b) If the state so petitions, it shall present clear and convincing evidence that the offender suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory criminal sex offenses.
- "(c) Any offender determined in any other state to be a sexually violent predator shall be considered a sexually violent predator in this state.
- "(d) Sexually violent predators shall be required, upon release, to provide to the responsible agency, in addition to the information required to complete a community notification flyer as provided in subdivision (3) of Section 15-20-21:
- "(1) A full history of criminal offenses committed by the offender.
- "(2) Documentation of any treatment received for themental abnormality or personality disorder of the offender.

L	"(e) A sexually violent predator shall be required
2	to verify his or her place of residence on a quarterly basis,
3	rather than an annual basis as is generally provided in
1	Section 15-20-24

- "(f) A sexually violent predator, as a condition of the offender's release from incarceration, shall be subject to electronic monitoring and be required to pay the costs of such monitoring, as set forth in Section 15-20-26.1, for a period of no less than 10 years from the date of the sexually violent predator's release. This requirement shall be imposed by the sentencing court as a part of the sexually violent predator's sentence, as provided in Sections 13A-5-6(c) and 15-20-26.1.
- "(g) An intentional failure to comply with any provision of this section shall constitute a Class C felony. "\$15-20-26.
- "(a) Unless otherwise exempted by law, no adult criminal sex offender shall establish a residence or any other living accommodation or accept employment within 2,000 feet of the property on which any school or child care facility is located.
- "(b) Unless otherwise exempted by law, no adult criminal sex offender shall establish a residence or any other living accommodation within 1,000 feet of the property on which any of his or her former victims, or the victims' immediate family members reside.

1	"(c) No adult criminal sex offender shall establish
2	a residence or any other living accommodation where a minor
3	resides. Notwithstanding the foregoing, an adult criminal sex
4	offender may reside with a minor if the adult criminal sex
5	offender is the parent, grandparent, or stepparent of the
6	minor, unless one of the following conditions applies:

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- "(1) The adult criminal sex offender's parental rights have been or are in the process of being terminated as provided by law.
- "(2) The adult criminal sex offender has been convicted of any criminal sex offense in which any of the offender's minor children, grandchildren, or stepchildren were the victim.
- "(3) The adult criminal sex offender has been convicted of any criminal sex offense in which a minor was the victim and the minor resided or lived with the offender at the time of the offense.
- "(4) The adult criminal sex offender has ever been convicted of any criminal sex offense involving a child, regardless of whether the offender was related to or shared a residence with the child victim.
- "(d) No adult criminal sex offender shall be permitted to willfully or knowingly come within 100 feet of any of his or her former victims, except as elsewhere provided by law, or make any visual or audible sexually suggestive or

obscene gesture, sound, or communication at or to a former victim or a member of the victim's immediate family.

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"(e) Changes to property within 2,000 feet of an adult criminal sex offender's registered address which occur after an adult criminal sex offender establishes residency or accepts employment shall not form the basis for finding that a criminal sex offender is in violation of subsections (a) or (b).

"(f) No adult criminal sex offender, after having been convicted of a criminal sex offense involving a child, shall loiter on or within 500 feet of any property on which there is a school, child care facility, playground, park, athletic field or facility, or any other business or facility having a principal purpose of caring for, educating, or entertaining minors. Under this subsection, "loiter" means to enter or remain on property while having no legitimate purpose therefor or, if a legitimate purpose exists, remaining on that property beyond the time necessary to fulfill that purpose. An offender does not violate this subsection unless he or she has first been asked to leave a prohibited location by a person authorized to exclude the offender from the premises. An authorized person includes, but not be limited to, any law enforcement officer, any owner or manager of the premises, a principal or teacher if the premises is a school or child care

1	facility,	or	a	coach	if	the	premises	is	an	athletic	field	or
2	facility.											

- "(g) No adult criminal sex offender, after having been convicted of a criminal sex offense involving a child, shall accept, maintain, or carry on any employment or vocation at or within 500 feet of a school, child care facility, playground, park, athletic field or facility, or any other business or facility having a principal purpose of caring for, educating, or entertaining minors.
- "(h) An adult criminal sex offender who knowingly violates the provisions of this section shall be guilty of a Class C felony.
- 13 "\$15-20-29.

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- "(a) Prior to release of the juvenile criminal sex

 offender, the following shall apply:
 - "(1) The responsible agency shall require the parent, custodian, or guardian of the juvenile criminal sex offender to declare in writing the actual living address at which the juvenile criminal sex offender will reside upon release. An intentional failure to provide a timely and accurate written declaration shall constitute a Class A misdemeanor.
 - "(2) If the parent, guardian, or custodian of the juvenile criminal sex offender declares an address outside of the state, the responsible agency shall, within five business

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days of the written declaration required by this article, notify the Director of the Department of Public Safety, the Attorney General, or the designated state law enforcement agency of the state to which the parent, guardian, or custodian of the juvenile criminal sex offender has declared the actual living address. The notification shall include all information available to the responsible agency that would be necessary to identify and trace the juvenile criminal sex offender, including, but not limited to, the risk assessment and a current photograph of the juvenile criminal sex offender.

"(3) If the parent, guardian, or custodian of the juvenile criminal sex offender declares an address within this state, the responsible agency shall, within five business days of the written declaration, notify the Attorney General, the Director of the Department of Public Safety, the district attorney and the sheriff of the county in which the parent, guardian, or custodian of the juvenile criminal sex offender has declared the actual living address, and the chief of police of any municipality in which the parent, guardian, or custodian of the juvenile criminal sex offender has declared the actual living address. The notification shall include all information available to the responsible agency that would be necessary to identify and trace the juvenile criminal sex offender, including, but not limited to, the risk assessment

and a current photograph of the juvenile criminal sex
offender.

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- "(b) If the parent, custodian, or quardian of a juvenile criminal sex offender intends to transfer the residence of the juvenile criminal sex offender, or the custody of the juvenile criminal sex offender is changed to a different parent or quardian resulting in a transfer of residence, the original parent or guardian in custody shall declare in writing the actual living address of the intended new residence for the juvenile criminal sex offender and provide this information to the sheriff for the current residence at least 14 days prior to moving to the new location. The sheriff shall transfer the information to the Department of Public Safety and the sheriff of the county to which the juvenile criminal sex offender intends to move or the chief of police. An intentional failure to provide a timely and accurate written declaration shall constitute a Class A misdemeanor.
- (c) When a juvenile criminal sex offender becomes the age of majority, the parent, guardian, or custodian of the juvenile criminal sex offender shall no longer be subject to the requirements under subsections (a) and (b), and the juvenile criminal sex offender shall instead be subject to Section 15-20-22 or Section 15-20-23 as though he or she were an adult criminal sex offender. Community notification,

however, shall not be allowed, unless so ordered by the
sentencing court.

3 "\$15-20-31.

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"For the purposes of this article, if a youthful offender criminal sex offender has not been previously adjudicated for a criminal sex offense, he or she shall be considered a juvenile criminal sex offender. If a youthful offender criminal sex offender has been previously adjudicated or convicted of a criminal sex offense, he or she shall be treated as an adult criminal sex offender. A youthful offender criminal sex offender who is treated as a juvenile criminal sex offender for purposes of this article may not be released from the jurisdiction of the sentencing court until the offender has undergone sex offender treatment and a risk assessment as required by Sections 15-20-27 and 15-20-28.

"\$15-20-35.

- "(a) The responsible agency shall cooperate with the Director of the Department of Public Safety in a reasonable manner that enables the Department of Public Safety to prepare a criminal sex offender release notification form, designed by the Department of Public Safety.
- "(b) The information collected or maintained by the Department of Public Safety, sheriff, or police department under this article shall be used to track the locations and

1	movements	of	crimina	l sez	offenders	in	this	state	and	shall	be
2	disclosed	to	anv of	the :	following:						

"(1) Federal, state, and local criminal justice

agencies for law enforcement purposes and community

notification in accordance with Section 15-20-22 or another

state's similar provision.

- "(2) Federal, state, and local governmental agencies responsible for conducting employment-related confidential background checks.
- "(c) The information in this section may be made available through the Alabama Criminal Justice Information

 Center information systems and the National Crime Information

 Center network for criminal justice purposes or any other purpose authorized by law.
- "(d) No existing state laws, including, but not limited to, statutes that would otherwise make juvenile and youthful offender records confidential, shall preclude the disclosure of any information requested by a responsible agency, a law enforcement officer, a criminal justice agency, the Attorney General's Office, or a district attorney for purposes of administering, implementing, or enforcing this article."
- 23 Section 2. Sections 15-20-23.1, 15-20-26.1, and 24 15-20-26.2 are added to the Code of Alabama 1975, to read as 25 follows:

1 \$15-20-23.1

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If an adult criminal sex offender intends to change his or her place of employment, he or she shall submit a notice of intent to do so to the sheriff of the county and the chief of police of the municipality in which he or she is then employed and to the sheriff of the county and chief of police of the municipality in which he or she intends to be employed, if such are different, at least seven days prior to beginning employment at the new location. An intentional failure to provide a timely and accurate written declaration shall constitute a Class C felony.

\$15-20-26.1

shall implement a system of active and passive electronic monitoring that identifies the location of a monitored person and that can produce upon request reports or records of the person's presence near or within a crime scene or prohibited area, the person's departure from specified geographic limitations, or curfew violations by the offender. The Director of the Alabama Criminal Justice Information Center may promulgate any rules as are necessary to implement and administer this system of active electronic monitoring including establishing policies and procedures to notify the person's probation and parole officer or other court appointed

supervising authority when a violation of his or her electronic monitoring restrictions has occurred.

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- (b) The Board of Pardons and Paroles or a court may require, as a condition of release on parole, probation, community corrections, Court Referral Officer supervision, pre-trial release, or any other community based punishment option, that any person charged or convicted of a criminal sex offense be subject to electronic monitoring as provided in subsection (a).
- (c) Any person designated a sexually violent predator pursuant to Section 15-20-25.3 shall, upon release from incarceration, be subject to electronic monitoring supervised by the Board of Pardons and paroles, as provided in subsection (a), for a period of no less than 10 years from the date of the sexually violent predator's release. This requirement shall be imposed by the sentencing court as a part of the sexually violent predator's sentence in accord with Section 13A-5-6(c).
- (d) Any person convicted of a Class A felony criminal sex offense involving a child as defined in Section 15-20-21(5), upon release from incarceration, shall be subject to electronic monitoring supervised by the Board of Pardons and Paroles, as provided in subsection (a), for a period of no less than 10 years from the date of the offender's release. This requirement shall be imposed by the sentencing court as a

1	part	of	the	offender's	sentence	in	accord	with	Section
2	13A-5	5-6	(c).						

- (e) Any one subject to electronic monitoring pursuant to this section, unless he or she is indigent, shall be required to reimburse the supervising entity a reasonable fee to defray supervision costs. The Board of Pardons and Paroles, the sentencing court, or other supervising entity shall determine the amount to be paid based on the person's financial means and ability to pay, but such amount shall not exceed fifteen dollars (\$15) per day.
 - (f) The supervising entity shall pay ACJIC a fee, to be determined by ACJIC but not exceeding ten dollars (\$10) per day, to defray monitoring equipment and telecommunications costs.
 - (g) It shall constitute a Class C felony for any person to willfully or knowingly alter, disable, deactivate, tamper with, remove, damage, or destroy any device used to facilitate electronic monitoring under this section.

\$15-20-26.2

(a) Every adult criminal sex offender who is a resident of this state shall obtain and always have in his or her possession either a valid driver's license or identification card issued by the Alabama Department of Public Safety. If any offender is ineligible to be issued a driver's license or official identification card, the Department of

1	Public Safety shall provide the offender some other form of
2	identification card or documentation that, if it is kept in
3	the offender's possession, shall satisfy the requirements of
4	this section. If any adult criminal sex offender is determined
5	to be indigent, an identification card or other documentation
6	in lieu thereof shall be issued to the offender at no cost. An
7	adult criminal sex offender who knowingly violates this
8	provision shall be guilty of a Class C felony.

- (b) Whenever the Department of Public Safety issues or renews a driver's license or identification card to an adult criminal sex offender, the driver's license or identification card shall bear a designation that enables law enforcement officers to identify the licensee as a criminal sex offender.
- 15 (c) This section shall become effective September 1, 16 2006.
- \$15-22-27.3

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Any person convicted of a criminal sex offense involving a child as defined in Section 15-20-21(5) which constitutes a Class A or B felony shall not be eligible for parole.

Section 3. Section 13A-11-203 of the Code of Alabama 1975, relating by penalty for violations by Registration of Sex Offenders is repealed.

1	Section 4. The procurement of any product or
2	services necessary for compliance with this act, including any
3	system of electronic monitoring, any equipment, and the
4	building of a website, shall be subject to the competitive bid
5	process.
6	Section 5. This act shall become effective on the
7	first day of the third month following its passage and
8	approval by the Governor, or its otherwise becoming law.

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4	President and Presiding Officer of the Senate
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6	Speaker of the House of Representatives
7 8 9 10 11 12 13 14	SB53 Senate 21-JUL-05 I hereby certify that the within Act originated in and passed the Senate, as amended. McDowell Lee Secretary
16 17 18	House of Representatives Amended and passed 26-JUL-05
20 21 22	Senate concurred in House amendment 26-JUL-05
23 24	By: Senator Mitchem